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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/695,525	10/28/2003	Joel Andrew Romig	HRA-14955	7257

27505 7590 09/22/2005

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WILLOUGHBY, OH 44094-7836

EXAMINER
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LUGO, CARLOS

ART UNIT	PAPER NUMBER
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3676

DATE MAILED: 09/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/695,525

Applicant(s)

ROMIG, JOEL ANDREW

Examiner

Carlos Lugo

Art Unit

3676

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 30 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 5-7,9,11,12,14 and 16-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7,9,12,14,16-19 and 24-27 is/are allowed.
- 6) ☒ Claim(s) 5,11,20,21 and 23 is/are rejected.
- 7) ☒ Claim(s) 6 and 22 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input checked="" type="checkbox"/> Other: <u>attachment #1</u> .        |

### DETAILED ACTION

1. This Office Action is in response to applicant's RCE filed on June 30, 2005.

#### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

- The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

3. **Claim 21 is rejected** under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 21 claims dependency from claim 1. However, the current amendment shows that claim 1 is cancelled. Therefore, until appropriate correction and/or explanation from the applicant, the claim would not be considered.

#### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 5, 11 and 23 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 1,143,653 to Smith in view of US Pat No 6,174,003 to Smart.

Regarding claim 5, Smith discloses an assembly comprising a fixed member and a sliding member. A latch housing (10, 14 and 23) is secured to the sliding member.

A latch assembly is movably secured to the latch housing and releasable secured to a catch housing (17 and 18).

The latch assembly comprises a first and second latch arms (28) biased into engagement with the catch. The latch arms include a first actuated end, a second latching end and an elongated body portion extending between the ends. Each arm comprises a pivot pin (27) extending through the elongated body (see attachment #1).

A latch actuator (12,35 and 36) being movable relative to the housing and into engagement with the actuator ends of the latch arms so as to pivot the latch arms out of engagement with the catch housing (17 and 18). The latch actuator permits the sliding member to be slidably moved away from the fixed member.

However, Smith fails to disclose that the assembly is a window assembly. Smith discloses that the assembly is a sliding door assembly having a fixed and a sliding member

Smart teaches a similar lock assembly that could be used in either a door or a window.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the latch assembly of Smith, in a window assembly, as taught by Smart, since it would work as efficient in either a door or a window assembly because the fact that the latch is located in a window or in a door do not have any effect in the movement of the latch.

As to claim 11, Smith discloses that the latch housing includes rails (the upper and lower walls of the latch housing) that guide the latch actuator as the latch actuator is slidably moved.

As to claim 23, Smith discloses that the latch actuator is slidably secured to the latch housing and is moveable relatively toward and away from the catch housing (17 and 18).

6. **Claims 5,11,20, and 23 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 621,574 to Kinsey in view of US Pat No 6,174,003 to Smart.

Regarding claim 5, Kinsey discloses an assembly comprising a fixed member and a sliding member. A latch housing (5) is secured to the sliding member.

A latch assembly is movably secured to the latch housing and releasably secured to the catch housing (a).

The latch assembly comprises a first and second latch arms (b and b<sup>1</sup>) biased into engagement with the catch. The latch arms include a first actuated end, a second latching end and an elongated body portion extending between the ends. Each arm comprises a pivot pin (1) extending through the elongated body.

A latch actuator (c) being movable relative to the housing and into engagement with the actuator ends of the latch arms so as to pivot the latch arms out of engagement with the catch housing (a). The latch actuator permits the sliding member to be slidably moved away from the fixed member.

However, Kinsey fails to disclose that the assembly is a window assembly. Kinsey discloses that the assembly is a sliding door assembly for a cabinet having a fixed and a sliding member

Smart teaches a similar lock assembly that could be used in either a door or a window.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the latch assembly of Kinsey, in a window assembly, as taught by Smart, since it would work as efficient in either a door or a window assembly because the fact that the latch is located in a window or in a door do not have any effect in the movement of the latch.

As to claim 11, Kinsey discloses that the latch housing includes rails (the upper and lower walls 6 of the latch housing) that guide the latch actuator as the latch actuator is slidably moved.

As to claim 20, Kinsey discloses that the latch actuator is disposed between the latch arms.

As to claim 23, Kinsey discloses that the latch actuator is slidably secured to the latch housing and is moveable relatively toward and away from the catch.

#### ***Allowable Subject Matter***

7. **Claims 7,9,12,14,16-19, and 24-27 are allowed.**
8. **Claims 6 and 22 are objected to** as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### **Reasons For Allowance**

9. The following is an examiner's statement of reasons for allowance:

Claims 7,12 and 18 are allowable over the prior art of record and claims 6 and 22 presents allowable subject matter over the prior art of record because the teachings of the references taken as a whole do not teach or render obvious the combination

set forth, including that the catch housing define slotted openings so that the latching ends extends and engage the slotted openings.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Response to Arguments***

10. Applicant's arguments filed on June 30, 2005 have been fully considered but they are not persuasive.

Regarding applicant's arguments that neither Smith, Smart nor Kornstein discloses the pivot pin on the elongated body (Page 13 Line 13), Smith discloses this limitation (see attachment #1). Therefore, the rejection in view of Smith, as modified by Smart and Kornstein, is maintained. Further, a new rejection has been made on record in view of Kinsey, as modified by Smart and Kornstein.

### ***Conclusion***

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Lugo whose telephone number 571-272-7058. The examiner can normally be reached on 9-6pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on 571-272-6843. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Art Unit: 3676

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5771.

C.L-

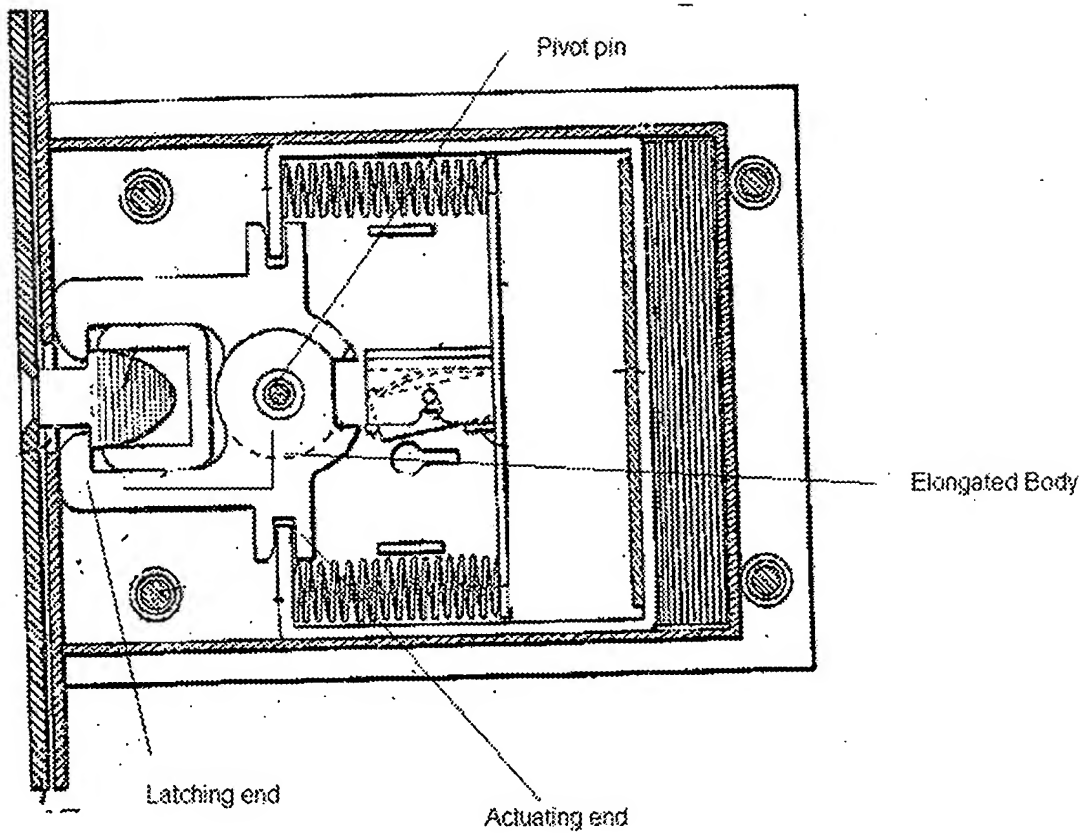
Carlos Lugo  
AU 3676

September 16, 2005

A handwritten signature in black ink, appearing to read "Brian E. Glessner", followed by a long horizontal line extending to the right.

**BRIAN E. GLESSNER**  
**PRIMARY EXAMINER**





Attachment #1